

Ramesh Chandra Tiwari and Another

Vs

U. P. Avas Evam Vikas Parishad, Lucknow and Others

Civil Appeal No. 1823 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

08.01.1996

ORDER

1. Leave granted.

2. The controversy raised in this case is squarely covered by the judgment of this Court in Gauri Shankar Gaur v. State of U. P. ((1994) 1 SCC 92) wherein this Court had held that the provision of Section 6 of the Land Acquisition Act, 1894 had no application to the acquisition initiated under U.P. Avas Evam Vikas Parishad Adhinyam, 1965 and the procedure prescribed in Sections 28 and 32, as modified by operation of Section 55 read with para 2 of the Schedule would be applicable. Consequently, the Land Acquisition (Amendment) Act 68 of 1984 had no application. The above view was reiterated by this Court in U. P. Avas Evam Vikas Parishad v. Pushpa Lata Awasthi ((1995) 3 SCC 573). Consequently, the notification issued under Section 28 and declaration made under Section 38 of the Adhinyam are valid in law. The procedure prescribed under the Adhinyam should prevail. The Amendment Act 68 of 1984 does not apply to the acquisition under the Adhinyam. However, in view of the judgment in Gauri Shankar case ((1994) 1 SCC 92), the claimants would be entitled to the compensation determined with reference to the date of declaration under Section 32 of the Act for the reasons mentioned therein.

3. The appeal is accordingly disposed of.